

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA**

Alonzo Harvin, # 157738,	)	
	)	
Petitioner,	)	No. 5:14-cv-1064-RMG
	)	
vs.	)	<b>ORDER</b>
	)	
Warden, Lieber Correctional Institution,	)	
	)	
Respondent.	)	
	)	

This matter comes before the Court on the Report and Recommendation (R & R) of the Magistrate Judge (Dkt. No. 30), recommending that Respondent's motion for summary judgment be granted. For the reasons stated below, the Court **ADOPTS** the R & R in full. Accordingly, Respondent's Motion for Summary Judgment (Dkt. No. 17) is **GRANTED**.

**I. Background**

Petitioner filed this habeas action asserting that the state trial court erred in failing to grant a motion for a directed verdict because of the alleged insufficiency of evidence and the Petitioner was denied effective assistance of counsel at the trial and appellate level. (Dkt. No. 1). The Magistrate Judge carefully analyzed the factual and legal basis of each of Petitioner's habeas claims and issued a R & R recommending that the Respondent's Motion for Summary Judgment be granted in full. (Dkt. No. 30). Petitioner was advised of his right to file written objections to the R & R and that a failure to file timely objections would result in limited review by the District Court and waiver of the right to appeal from the District Court order. (Dkt. No. 30 at 31). Petitioner filed no timely objection to the R & R.

**II. Legal Standard**

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). This Court is charged with making a de novo determination of those portions of the R & R to which objection is made. *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting 28 U.S.C. § 636(b)(1)); *accord* Fed. R. Civ. P. 72(b). However, as is the case here, where no objections are made, this Court “must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Id.* (quoting Fed. R. Civ. P. 72 advisory committee note). Moreover, in the absence of specific objections to the R & R, the Court need not give any explanation for adopting the Magistrate Judge’s analysis and recommendation. *See Camby v. Davis*, 718 F.2d 198, 199-200 (4th Cir. 1983).

### **III. Discussion**

The Court has reviewed the parties’ filings and the R & R, and concludes that the Magistrate Judge correctly applied the relevant law to the operative facts in this matter. Therefore, the Court **ADOPTS** in full the Magistrate Judge’s Report and Recommendation (Dkt. No. 30) as the order of this Court. Accordingly, Respondent’s Motion for Summary Judgment (Dkt. No. 17 ) is **GRANTED**. Petitioner’s habeas petitions is **DISMISSED** with prejudice.

### **Certificate of Appealability**

The governing law provides that:

(c)(2) A certificate of appealability may issue . . . only if the applicant has made a substantial showing of the denial of a constitutional right.

(c)(3) The certificate of appealability . . . shall indicate which specific issue or issues satisfy the showing required by paragraph (2).

28 U.S.C. § 2253(c). A prisoner satisfies the standard by demonstrating that reasonable jurists would find this Court's assessment of his constitutional claims debatable or wrong and that any dispositive procedural ruling by the district court is likewise debatable. *See Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Rose v. Lee*, 252 F.3d 676, 683 (4th Cir. 2001). In this case, the legal standard for the issuance of a certificate of appealability has not been met. Therefore, a certificate of appealability is DENIED.

**IT IS SO ORDERED.**

A handwritten signature in black ink, consisting of stylized initials 'RMG' followed by a large, loopy flourish.

---

Richard Mark Gergel  
United States District Judge

January 12, 2015  
Charleston, South Carolina